

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

FILED
03/31/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-0423-R-2021
Brown, Stephen R
14.00

MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

* * * * *

CLAIMANT: Paradise Valley Ranch LLC

OBJECTOR: Paradise Valley Ranch LLC

CASE 43B-0423-R-2021

43B 211145-00
43B 211147-00
43B 211148-00
43B 211149-00
43B 211150-00
43B 211151-00
43B 211152-00
43B 211153-00
43B 211154-00
43B 211374-00

ORDER REQUIRING NOTICE

The Court consolidated ten water right claims in this case to address requests by Paradise Valley Ranch LLC (“PVR”) to reinstate the claims. Much of the background for the reinstatement request is set forth in the Court’s May 3, 2022 “Order Setting Filing Deadline and Setting Additional Procedures” (“Procedural Order”) (Doc. 7.00).

The Procedural Order granted PVR’s request to seek reinstatement subject to several conditions. PVR satisfied the first conditions by filing proposed abstracts with the Court and by paying the Department of Natural Resources and Conservation (“DNRC”) the late claim filing fee specified in § 85-2-225, MCA.

The Court then requested that DNRC examine the claims. DNRC completed the examination and provided a report to the Court. (Doc. 13.00). Based on DNRC's report and PVR's proposed abstracts, the Court created a set of post-decree abstracts. The proposed abstracts are included with this Order. As provided in the Procedural Order, PVR now must provide public notice of the proposed abstracts with an opportunity for objections or comments.

ORDER

Therefore, it is ORDERED:

1. PVR shall publish, at its cost, the attached notice in the *Livingston Enterprise* and the *Bozeman Daily Chronicle* once a week for 3 consecutive weeks.¹
2. PVR shall send the attached notice by U.S. Mail to: (1) all persons who own a water right to divert surface water from Trail Creek with a point of diversion located in Township 3 South, Range 8 East, Township 4 South, Range 8 East, and Township 4 South, Range 9 East, in Park County; (2) all persons who own a water right to divert surface water from Eightmile Creek with a point of diversion located in Township 4 South, Range 8 East, and Township 5 South, Range 8 East, in Park County; and (3) each person referenced as a potential owner in the issue remarks on any of the proposed abstracts.
3. That any response or objection to the proposed reinstatement be filed with the Montana Water Court within 45 days of the date of the later of (a) the *last* publication of the attached notice or (b) the date of mailing of personal notice required in the prior paragraph. PVR shall determine such last publication date after consultation with the newspapers, determine the objection filing deadline, and insert the objection filing deadline in the blank space on the attached notice. PVR shall provide a copy of the notice to the Water Court simultaneously with providing it to the newspapers and the Water Court will also publish the notice on its website.

¹ The Procedural Order indicated publication in three newspapers would be necessary. The Court modifies this provision to the two referenced newspapers, together with website notice, based on the notice requirements of § 85-2-233(6)(a), MCA.

4. PVR shall file a Certificate of Service attesting to the individual water user mailings per the list above, and also file the newspaper's original proof, affidavit, or certificate of publication with the Montana Water Court within a reasonable time after receipt. If the filings required in this paragraph have not been made by **July 31, 2023**, the Court will conclude PVR does not intend to pursue the motion and will close this case.

5. A full copy of the PVR's Motion for Relief From Judgment (Doc. 6.00), the Procedural Order (Doc. 7.00), the DNRC memorandum (Doc. 13.00), and this Order with all attachments, shall be placed on the Water Court's website at <https://courts.mt.gov/courts/water/Notices-Info/> until the close of the objection period.

ELECTRONICALLY SIGNED AND DATED BELOW

Service Via Electronic Mail:

Peter G. Scott
Peter G. Scott, Law Offices, PLLC
682 South Ferguson Avenue Suite 4
Bozeman, Mt 59718-6491
peter@scott-law.com
office@scott-law.com

ATTACHMENT 1
PROPOSED ABSTRACTS

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211145-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: APRIL 1, 1878

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.75

Volume: 1,350.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 160.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	80.00		S2NE	4	4S	9E	PARK
2	80.00		N2SE	4	4S	9E	PARK
Total:	160.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 150 MINER'S INCHES DECREED IN CASE NO. 336 , PARK COUNTY. THE COURT, AT THIS TIME, MAKES NO DETERMINATION OF CORRECT PREDECESSORS IN INTEREST OR THE CORRECT DIVISION OF THIS RIGHT AMONG CLAIMANTS. 404262-00, W211145-00.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

CLAIM FILED LATE 12/24/84.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211147-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: APRIL 15, 1876

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 10.00 CFS

Volume: 1,200.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 2,397.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO JUNE 15					
Diversion Means:	HEADGATE					
Ditch Name:	TRAIL CREEK DITCH					
2		SWNWNE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO JUNE 15					
Diversion Means:	HEADGATE					
Ditch Name:	NESBIT DITCH					
3		NWNESE	25	4S	8E	PARK
Period of Diversion:	APRIL 15 TO JUNE 15					
Diversion Means:	HEADGATE					

Ditch Name: DARROCH DITCH
Period of Use: APRIL 15 TO JUNE 15
THIS RIGHT IS LIMITED TO HIGH OR FLOOD WATERS OF TRAIL CREEK.

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	300.00		N2	25	4S	8E	PARK
2	640.00			19	4S	9E	PARK
3	240.00		W2	20	4S	9E	PARK
4	600.00			17	4S	9E	PARK
5	326.00			4	4S	9E	PARK
6	125.00		SE	5	4S	9E	PARK
7	148.00		SE	33	3S	9E	PARK
8	18.00		NENE	26	4S	8E	PARK
Total:	2397.00						

Remarks:

THIS CLAIM PRESENTS ISSUES OF LAW AND FACT THAT MAY BE ADDRESSED AT THE OBJECTION STATE. IT APPEARS THAT 2033.00 ACRES ARE ACTUALLY IRRIGATED AT THIS TIME. PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

CLAIM FILED LATE 12/24/84.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY BRIAN KEMPISTY.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY EIGHTMILE CREEK PV RANCH LLC.

DITCH NAMES WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE POINT OF DIVERSION 1 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

THE POINT OF DIVERSION 2 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESWNE SEC 23 TWP 4S RGE 8E PARK COUNTY.

AERIAL PHOTOGRAPH NO(S). 179-152 AND 1799-154 , DATED 9/15/1979 , APPEARS TO INDICATE 1871.35 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSJA AND GSFZ , DATED 08/16/1949 AND 08/26/1948 , APPEARS TO INDICATE
1662.47 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211148-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: MAY 15, 1878

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.75 CFS

Volume: 1,350.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 160.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	80.00		S2SE	4	4S	9E	PARK
2	80.00		E2SW	4	4S	9E	PARK
Total:	160.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

NOTICE OF TRANSFER RECEIVED 1/08/87.

CLAIM FILED LATE 12/24/84.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

AERIAL PHOTOGRAPH NO(S). 179-154 , DATED 09/15/1979 , APPEARS TO INDICATE 117.93 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSFZ , DATED 08/26/1948 , APPEARS TO INDICATE 131.35 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211149-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: JUNE 19, 1881

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.88 CFS

Volume: 675.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 162.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	150.00		SE	33	3S	9E	PARK
2	12.00		E2SW	33	3S	9E	PARK
Total:	162.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

NOTICE OF TRANSFER RECEIVED 1/08/87.

THE CLAIMS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER. THESE CLAIMS SHALL NOT EXCEED THE 75 ML (1. 75 CFS) AS DECREED IN CASE NO. 336. THE COURT, AT THIS TIME, MAKES NO DETERMINATION OF CORRECT PREDECESSORS IN INTEREST OR THE CORRECT DIVISION OF THIS RIGHT AMONG CLAIMANTS.

W101035-00, W211149-00

CLAIM FILED LATE 12/24/84.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 75 MINER'S INCHES DECREED IN CASE NO. 336 , PARK COUNTY. 43B 101035-00, 43B 211149-00.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FLOW RATE OF THIS WATER RIGHT MAY REQUIRE CHANGE PENDING THE RESOLUTION OF THE DECREE EXCEEDED ISSUE WITH WATER RIGHT 43B 101035-00.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

THE POINT OF DIVERSION APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

AERIAL PHOTOGRAPH NO(S). GSFZ , DATED 08/26/1948 , APPEARS TO INDICATE 125.4 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 336 , PARK COUNTY, DOES NOT SPECIFY A MONTH AND DAY .THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED THE SAME PRIORITY DATE. 43B 211149-00, 43B 101035-00.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211150-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: DECEMBER 31, 1883

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 1.62 CFS

Volume: 585.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 640.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO JUNE 15					
Diversion Means:	HEADGATE					
2		SWNWNE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO JUNE 15					
Diversion Means:	HEADGATE					
3		NWNESE	25	4S	8E	PARK
Period of Diversion:	APRIL 15 TO JUNE 15					
Diversion Means:	HEADGATE					
Period of Use:	APRIL 15 TO JUNE 15					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	640.00			17	4S	9E	PARK
Total:	640.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

NOTICE OF TRANSFER RECEIVED 1/08/87.

THIS CLAIM PRESENTS ISSUES OF LAW AND FACT THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 500.00 ACRES ARE ACTUALLY IRRIGATED AT THIS TIME. PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

CLAIM FILED LATE 12/24/84.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

USE OF THE NESBIT DITCH TO CONVEY WATER TO THE PLACE OF USE MAY BE QUESTIONABLE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 65 MINER'S INCHES DECREED IN CASE NO. 283 , PARK COUNTY. 43B 190482-00 AND 43B 211150-00.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

THE FLOW RATE OF THIS WATER RIGHT MAY REQUIRE CHANGE PENDING THE RESOLUTION OF THE DECREE EXCEEDED ISSUE WITH WATER RIGHT 43B 190482-00.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY BRIAN KEMPISTY.

DITCH NAMES WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE POINT OF DIVERSION 1 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

THE POINT OF DIVERSION 2 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESWNE SEC 23 TWP 4S RGE 8E PARK COUNTY.

AERIAL PHOTOGRAPH NO(S). 179-152 , DATED 09/15/1979 , APPEARS TO INDICATE 494.57 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GS-JA , DATED 08/16/1949 , APPEARS TO INDICATE 484.35 ACRES IRRIGATED.
A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE PRIORITY DATE MAY BE QUESTIONABLE. CASE NO. 336 , PARK COUNTY, DOES NOT SPECIFY A DAY
AND MONTH . THE CLAIMS LISTED FOLLOWING THIS STATEMENT HAVE CLAIMED VARYING PRIORITY
DATES. 43B 190482-00, 43B 211150-00.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211151-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: APRIL 7, 1909

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.55 CFS

Volume: 1,128.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 120.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO OCTOBER 15					
Diversion Means:	HEADGATE					
2		SWNWNE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO OCTOBER 15					
Diversion Means:	HEADGATE					
3		NWNESE	25	4S	8E	PARK
Period of Diversion:	APRIL 15 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Period of Use:	APRIL 15 TO OCTOBER 15					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	80.00		E2SE	24	4S	8E	PARK
2	40.00		SWSE	24	4S	8E	PARK
Total:	120.00						

Remarks:

CLAIM FILED LATE 12/24/84.

NOTICE OF TRANSFER RECEIVED 1/08/87.

THIS CLAIM PRESENTS ISSUES OF LAW AND FACT THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 12 ACRES ARE ACTUALLY IRRIGATED AT THIS TIME. PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

DITCH NAMES WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE POINT OF DIVERSION 1 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

THE POINT OF DIVERSION 2 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESWNE SEC 23 TWP 4S RGE 8E PARK COUNTY.

AERIAL PHOTOGRAPH NO(S). 179-152 , DATED 09/15/1979 , APPEARS TO INDICATE 6.58 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GS-JA , DATED 08/16/1949 , APPEARS TO INDICATE 0.00 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211152-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: APRIL 15, 1876

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 7.50 CFS

Volume: 2,700.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 2,397.00

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO OCTOBER 15					
Diversion Means:	HEADGATE					
2		SWNWNE	23	4S	8E	PARK
Period of Diversion:	APRIL 15 TO OCTOBER 15					
Diversion Means:	HEADGATE					
3		NWNESE	25	4S	8E	PARK
Period of Diversion:	APRIL 15 TO OCTOBER 15					
Diversion Means:	HEADGATE					
Period of Use:	APRIL 15 TO OCTOBER 15					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	300.00		N2	25	4S	8E	PARK
2	640.00			19	4S	9E	PARK
3	240.00		W2	20	4S	9E	PARK
4	600.00			17	4S	9E	PARK
5	326.00			4	4S	9E	PARK
6	125.00		SE	5	4S	9E	PARK
7	148.00		SE	33	3S	9E	PARK
8	18.00		NENE	26	4S	9E	PARK
Total:		2397.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

CLAIM FILED LATE 12/24/84.

NOTICE OF TRANSFER RECEIVED 1/08/87.

THIS CLAIM PRESENTS ISSUES OF LAW AND FACT THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 2033.00 ACRES ARE ACTUALLY IRRIGATED AT THIS TIME. PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY BRIAN KEMPISTY.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY EIGHTMILE CREEK PV RANCH LLC.

DITCH NAMES WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

THE POINT OF DIVERSION 1 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESESE SEC 23 TWP 4S RGE 8E PARK COUNTY.

THE POINT OF DIVERSION 2 APPEARS TO BE INCORRECT. THE POINT OF DIVERSION APPEARS TO BE IN THE SESWNE SEC 23 TWP 4S RGE 8E PARK COUNTY.

AERIAL PHOTOGRAPH NO(S). 179-152 AND 179-154 , DATED 9/15/1979 , APPEARS TO INDICATE 1871.35 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSJA AND GSFZ , DATED 08/16/1949 AND 08/26/1948 , APPEARS TO INDICATE 1662.47 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE PRIORITY DATE MAY BE QUESTIONABLE. THE PRIORITY DATE DESCRIBED ON THE FILED NOTICE OF APPROPRIATION IS INCONSISTENT WITH THE CLAIMED.

THE DECLARATION OF WATER RIGHT DOES NOT CONTAIN A DAY OR MONTH.

THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM INDICATES A FILED APPROPRIATION RIGHT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211153-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: OCTOBER 1, 1879

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

Volume: 1,864.02 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 3,288.00

Source Name: EIGHTMILE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENENE	4	5S	8E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: DARROCH DITCH

DITCH NAME: DARROCH DITCH

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	8.00		E2SE	26	4S	8E	PARK
2	640.00			1	5S	8E	PARK
3	190.00			35	4S	8E	PARK
4	480.00			25	4S	8E	PARK

5	480.00	SEN2	30	4S	9E	PARK
6	470.00		19	4S	9E	PARK
7	320.00	W2	20	4S	9E	PARK
8	160.00	NE	20	4S	9E	PARK
9	40.00	NESE	20	4S	9E	PARK
10	500.00		17	4S	9E	PARK
Total:						3288.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

CLAIM FILED LATE 12/24/84.

NOTICE OF TRANSFER RECEIVED 1/08/87.

THIS CLAIM PRESENTS ISSUES OF LAW AND FACT THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 1897.00 ACRES ARE ACTUALLY IRRIGATED AT THIS TIME. PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY BRIAN KEMPISTY.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY EIGHTMILE CREEK PV RANCH LLC.

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

AERIAL PHOTOGRAPH NO(S). 179-152 , DATED 9/15/1979 , APPEARS TO INDICATE 1669.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSJA 1-180, 3-77, & 3-81 , DATED 08/16/1949 AND 08/23/1949 , APPEARS TO INDICATE 1251.88 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

THE PRIORITY DATE MAY BE QUESTIONABLE. IT IS UNCLEAR WHETHER THE CLAIMED PRIORITY DATE IS 1890 OR 1879.

THE TYPE OF HISTORICAL RIGHT MAY BE QUESTIONABLE. DOCUMENTATION SUBMITTED WITH THE CLAIM
INDICATES A DECREED RIGHT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211154-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: APRIL 1, 1879

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 12/24/84 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 14.25 CFS

Volume: 5,132.00 AC-FT

THE TOTAL VOLUME OF THE RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 3,288.00

Source Name: EIGHTMILE CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNWNW	3	5S	8E	PARK

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: DARROCH DITCH

2		NENENE	4	5S	8E	PARK
---	--	--------	---	----	----	------

Period of Diversion: APRIL 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: DARROCH DITCH

Period of Use: APRIL 15 TO OCTOBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	8.00		E2SE	26	4S	8E	PARK
2	640.00			1	5S	8E	PARK
3	190.00			35	4S	8E	PARK
4	480.00			25	4S	8E	PARK
5	480.00		SEN2	30	4S	9E	PARK
6	470.00			19	4S	9E	PARK
7	320.00		W2	20	4S	9E	PARK
8	160.00		NE	20	4S	9E	PARK
9	40.00		NESE	20	4S	9E	PARK
10	500.00			17	4S	9E	PARK
Total:		3288.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

CLAIM FILED LATE 12/24/84.

NOTICE OF TRANSFER RECEIVED 1/08/87.

THE CLAIMS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THESE CLAIMS SHALL NOT EXCEED THE 570 M1 (14.25 CFS) AS DECREED IN CASE NO. 3784. THE COURT, AT THIS TIME, MAKES NO DETERMINATION OF CORRECT PREDECESSORS IN INTEREST OR THE CORRECT DIVISION OF THIS RIGHT AMONG CLAIMANTS. W190434-00, W190437-00, W211154-00.

THIS CLAIM PRESENTS ISSUES OF LAW AND FACT THAT MAY BE ADDRESSED AT THE OBJECTION STAGE. IT APPEARS THAT 1897.00 ACRES ARE ACTUALLY IRRIGATED AT THIS TIME. PROBLEMS COULD EXIST WITH FLOW RATE AND VOLUME.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 275 MINER'S INCHES DECREED IN CASE NO. 3784 , PARK COUNTY. 43B 190434-00, 43B 190434-01, 43B 190434-02, 43B 190437-00, AND 43B 211154-00.

FLOW RATE MAY REQUIRE MODIFICATION BASED ON RESOLUTION OF MAXIMUM ACRES ISSUE.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 12/24/84 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

MAXIMUM ACREAGE MAY REQUIRE MODIFICATION FOLLOWING RESOLUTION OF PLACE OF USE ISSUE REMARK.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY BRIAN KEMPISTY.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY EIGHTMILE CREEK PV RANCH LLC.

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE POD 1 CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

AERIAL PHOTOGRAPH NO(S). 179-152 , DATED 9/15/1979 , APPEARS TO INDICATE 1669.50 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

AERIAL PHOTOGRAPH NO(S). GSJA 1-180, 3-77, & 3-81 , DATED 08/16/1949 AND 08/23/1949 , APPEARS TO INDICATE 1251.88 ACRES IRRIGATED. A DESCRIPTION OF THESE ACRES IS IN THE CLAIM FILE.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 211374-00 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Late Claim: B

Owners: PARADISE VALLEY RANCH LLC
% DMS NATURAL RESOURCES LLC
602 S FERGUSON AVE STE 2
BOZEMAN, MT 59718 6483

Priority Date: APRIL 15, 1872

Enforceable Priority Date: JUNE 30, 1973

CLAIM FILED LATE 07/17/85 . AS MANDATED BY SECTION 85-2-221(3), MCA, THIS CLAIM IS SUBORDINATE, AND THEREFORE JUNIOR, TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW.

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCKWATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: TRAIL CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSESE	23	4S	8E	PARK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DITCH

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SE	23	4S	8E	PARK
2				25	4S	8E	PARK
3			SE	24	4S	8E	PARK
4			N2	30	4S	8E	PARK
5				19	4S	8E	PARK
6			E2	18	4S	8E	PARK
7				20	4S	9E	PARK

8	SW	4	4S	9E	PARK
9		17	4S	9E	PARK
10	SESENW	8	4S	9E	PARK
11	SE	5	4S	9E	PARK
12	SE	33	3S	9E	PARK

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

190480-00	190482-00	190483-00	190485-00	190486-00	190487-00
190488-00	190489-00	190490-00	211145-00	211148-00	211149-00
211150-00	211152-00	211153-00	211154-00	211374-00	

CLAIM FILED LATE 7/17/85.

NOTICE OF TRANSFER RECEIVED 1/08/87.

STARTING IN 2008, PERIOD OF DIVERSION WAS ADDED TO MOST CLAIM ABSTRACTS, INCLUDING THIS ONE.

THIS CLAIM WAS DISMISSED FROM THE ADJUDICATION PROCESS BY ORDER OF THE WATER COURT ON 12/17/90.

THE FOLLOWING POTENTIAL ISSUES WERE IDENTIFIED DURING CLAIMS EXAMINATION OR DURING PREVIOUS WATER COURT PROCEEDINGS.

USE OF THE TRAIL CREEK DITCH TO CONVEY WATER TO THE PLACE OF USE MAY BE QUESTIONABLE.

MEANS OF DIVERSION IS UNCLEAR.

CLAIM WAS NOT INCLUDED IN THE BASIN 43B TEMPORARY PRELIMINARY DECREE ISSUED 01/16/85.

MOTION TO REINSTATE FILED NOVEMBER 23, 2021.

CLAIM FILED LATE 07/17/85 . IN ADDITION TO BEING SUBORDINATE TO ALL INDIAN AND FEDERAL RESERVED WATER RIGHTS AND ALL VALID TIMELY FILED CLAIMS BASED ON STATE LAW, THIS RIGHT MAY ALSO BE SUBORDINATE TO CERTAIN PERMITS AND RESERVATIONS OF WATER. SEE SECTION 85-2-221 MCA.

ACCORDING TO CADASTRAL PROPERTY OWNERSHIP RECORDS, AS OF 09/07/2022 , A PORTION OF THE PROPERTY ON WHICH THIS WATER RIGHT IS USED APPEARS TO BE OWNED BY RICHARD A. CARGILL.

POINT OF DIVERSION MAY REQUIRE MODIFICATION UPON RESOLUTION OF MEANS OF DIVRSION ISSUE. THE CLAIMED PLACE OF USE SUGGESTS MULTIPLE DIVERSIONS AND DITCHES MAY BE INVOLVED.

THE CLAIMED POINT OF DIVERSION MAY BE INCOMPLETE. IT APPEARS THE HIGHLINE DITCH, LOCATED IN THE SWNENW SECTION 25 T4S, R9E, PARK COUNTY, MAY BE USED.

PLACE OF USE SHOULD BE CLARIFIED UPON CLARIFICATION OF POINT OF DIVERSION AND MEANS OF DIVERSION.

THE CLAIMED PRIORITY DATE MAY BE QUESTIONABLE. DOCUMENTATION TO SUPPORT PRIORITY DATE WAS NOT SUBMITTED WITH THIS CLAIM.

ATTACHMENT 2
NOTICE TO WATER USERS

Paradise Valley Ranch LLC (“PVR”) filed a motion to reinstate the following ten water right claims for the use of water from Trail Creek or Eightmile Creek in Park County, Montana: 43B 211145-00, 43B 211147-00; 43B 211148-00; 43B 211149-00; 43B 211150-00; 43B 211151-00; 43B 211152-00; 43B 211153-00; 43B 211154-00; and 43B 211374-00. The Water Court issued an order on May 3, 2022 specifying the conditions PVR must follow to reinstate the claims. PVR has satisfied several of the conditions, but the Water Court will not take further action until potentially affected parties have the opportunity to review and respond or object to the proposed reinstatement. A full copy of PVR’s motion, the Court’s procedural order, the order requiring this notice, and the proposed abstracts are available on the “Notices & Information” page of the Montana Water Court’s website at <https://courts.mt.gov/courts/water/Notices-Info/>. Interested parties may file a response or objection.

Any response or objection to the reinstatement motion must be filed with the Montana Water Court, PO Box 1389, Bozeman, MT 59771-1389, within 45 days of the last publication or mailing of this notice. Therefore, the filing deadline is: _____. A copy of any response or objection must be mailed to PVR, c/o Peter G. Scott, Law Offices, PLLC, 682 South Ferguson Ave., Suite 4, Bozeman, MT 59718-6491. Please indicate “Case 43B-0423-R-2021” on any response, objection, or other correspondence.